IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 5916 of 2005(D)

PETITIONER:

C.S.OMANA, AGED 50 YEARS,
W/O.M.N.VELAYUDHAN, UMBAKATTU HOUSE,
ARPOOKKARA EAST P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:
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1. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM.

2. THE ASST.EXCISE COMMISSIONER,
COLLECTORATE P.O., KOTTAYAM.

3. THE CIRCLE INSPECTOR OF EXCISE,
KOTTAYAM.

4. THE DISTRICT COLLECTOR,
KOTTAYAM.

5. K.K.AMBUJAKSHAN, LICENSEE,
TODDY SHOP NO.22, KOTTAYAM EXCISE RANGE,
(KARIMPUMKALA), CHINGAVANAM,
KOTTAYAM DISTRICT.

6. STATE OF KERALA, REPRESENTED BY
SECRETARY, TAXES (A) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

R5 BY ADV. SRI.K.REGHU KOTTAPPURAM
R1 TO 4 & 6 BY G.P. SMT.SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/02/2007, THE COURT ON 08/02/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: PHOTOCOPY OF THE PETITION SENT BY ONE A.B.SASI DT.10.9.2004 TO RESPONDENTS 1 TO 3.

P2: PHOTOCOPY OF THE PETITION DT.1.10.2004 SENT BY PETITIONER TO RESPONDENTS 1 TO 4.

P3: PHOTOCOPY OF NOTICE DT.21.10.2004 ISSUED BY R2.

P4: PHOTOCOPY OF NOTICE DT.28.10.2004 ISSUED BY R2.

P5: PHOTOCOPY OF COUNTER AFFIDAVIT FILED BY R5 IN WPC NO.29942/2004 WITH EXHIBITS:

P6: PHOTOCOPY OF THE LAWYER'S NOTICE DT.18.11.2004 ISSUED BY PETITIONER TO RESPONDENTS WITH ENCLOSURES.

P7: PHOTOCOPY OF THE JUDGMENT DT.24.11.2004 IN WPC NO.29942/2004 OF THIS HON'BLE COURT.

P8: PHOTOCOPY OF THE NOTIFICATION DT.24.11.2004 PUBLISHED IN THE KEREALA GAZETTE.

P9: PHOTOCOPY OF ORDER DT.1.2.2005 PASSED BY R4.

RESPONDENT'S EXHIBITS:

R5(1): TRUE COPY OF REELVANT PAGES OF THE NOTIFICATION CONCERNING THE SCHEDULE LIMITS OF TODDY SHOP NOS.21 & 22.

R5(2): TRUE COPY OF THE ROUGH SKETCH SHOWING THE ABOVE POSITION OF ELUKAS.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.5916 of 2005

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Dated this the 8th day of February, 2007.

JUDGMENT

Challenge in the W.P. is against location of toddy shop during the year 2002-2003. It is not known whether the dispute survives. In any case since the abkari year for which dispute was raised about the location of the toddy shop is over, the question if at all survives while considering renewal for subsequent years. There was no interim order by this court approving or disapproving location of the toddy shop. In the circumstances, W.P. is closed leaving freedom to the petitioner to raise objection if any about the location of the toddy shop while renewing licence for next abkari year i.e. 2007-2008.

C.N.RAMACHANDRAN NAIR
Judge

pms